



JFW

Attorney Docket No.: 60188-657  
**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	
	:	Customer No.20277
Minoru OKAMOTO	:	
	:	Confirmation No.: 4233
Serial No.: 10/664,874	:	
	:	Group Art Unit: 2826
Filed: September 22, 2003	:	Examiner: THOMAS L. DICKEY
	:	
For: SEMICONDUCTOR INTEGRATED CIRCUIT DEVICE		
AND METHOD FOR FABRICATING THE SAME		

**ELECTION UNDER 35 U.S.C. § 121**

Mail Stop Amendment  
Hon. Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the restriction requirement set forth in the Office Action mailed July 13, 2004, having a shortened statutory period for response set to expire August 13, 2004, wherein the Examiner required restriction between the following Groups:

- |          |   |                                 |
|----------|---|---------------------------------|
| Group I  | - | Claims 1-5, drawn to a method;  |
| Group II | - | Claims 6-11, drawn to a device. |

Applicant elects without traverse, Group I - claims 1-5 for initial prosecution on the merits. It is respectfully requested that the Examiner indicate these claims as device claims rather than method claims. Please cancel claims 6-11, without prejudice.

Applicant also reserves the right to file a Divisional Application for the non-elected claims 6-11, which the Examiner has indicated is patentably distinct.

Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicant has inadvertently overlooked the need for a petition for extension of time. The Commissioner is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0417. A duplicate copy of this Response is enclosed for accounting purposes.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Date: 8/12/04

By: Ben Sel #46,692  
for Michael E. Fogarty  
Registration No.: 36,139

600 13<sup>th</sup> Street, N.W., Suite 1200  
Washington, DC20005-3096  
Telephone: 202 756 8000  
Facsimile: 202 756 8087